

---

## EVALUATOR MANUAL TRANSMITTAL SHEET

---

<b><u>Distribution:</u></b>  <input type="checkbox"/> All Child Care Evaluator Manual Holders <input checked="" type="checkbox"/> All Residential Care Evaluator Manual Holders <input type="checkbox"/> All Evaluator Manual Holders	<b><u>Transmittal No.</u></b> <b>09APX-05</b>
	<b><u>Date Issued</u></b>  February 2009

**Subject:**

APX CCF/RCF-CI: 1995 Chaptered Legislation and Implementation – (SB 295 Revised 2/2009)  
(Appendix A – Community Care Facilities/Residential Care Facilities for the Chronically Ill)

---

**Reason for Change:**

This transmits the summary of the implementation plan for Senate Bill 295 (Peace, 1995) Chapter 840 which was revised in February 2009. **Note:** If a person inquires about the client's sex offender status, the licensee must now provide the Internet Website, [www.meganslaw.ca.gov](http://www.meganslaw.ca.gov) and not the "900" number which is inoperable. (Refer to AB 1323 (Vargas) Chapter 722, Statutes of 2005).

---

**Filing Instructions:**

REMOVE – 96APX-05 from Appendix A

INSERT – The attached 09APX-05 into Appendix A

---

**Approved:**

*Original signed by Thomas Stahl*

*2/17/09*

\_\_\_\_\_  
**THOMAS STAHL** Chief  
Policy Development Bureau  
Community Care Licensing Division

\_\_\_\_\_  
Date

---

Contact Person: Seton Bunker

Phone Number: (916) 322-1192

---

**COMMUNITY CARE FACILITIES  
SUMMARY OF 1995 CHAPTERED LEGISLATION**

**SECTION I**

**IMMEDIATE ACTION REQUIRED**

<b>Bill Number</b>	<b>Subject</b>	<b>Page</b>
AB 1523	Complaint Documentation	2
AB 1525	Indian Child Welfare Act Foster Homes	3
AB 1976	Residential Care Facility For the Chronically Ill License Exemption	4
SB 295	Sex Offenders in Community Care Facilities	5
SB 815	Neighborhood Complaint Procedures	7

**SECTION II**

**REGULATIONS OR ADDITIONAL INSTRUCTIONS TO BE DEVELOPED**

SB 815	Adult Residential Facility Administrator Certification	9
--------	---	---

**SECTION III**

**INFORMATION ONLY**

SB 1161	Adult Abuse Penalties	10
SB 1262	Foster Home Pilot Project	11

## **SECTION I**

### **IMMEDIATE ACTION REQUIRED**

#### **Assembly Bill 1523** **(Granlund) Chapter 540**

**AFFECTS:** All community care facilities (group homes, foster family homes, small family homes, family homes certified by foster family agencies, adult residential facilities, social rehabilitation facilities, adult day care facilities and adult day support centers)

**SUBJECT:** Complaint documentation and child welfare services

**SUMMARY:** Health and Safety Code Section 1538 now requires, the following:

- Licensing agency staff will keep confidential all documents relating to unfounded complaints. This includes complaints intended to harass licensees, complaints without reasonable basis, and complaints determined to be unfounded following a site inspection.
- Following complaints investigations which include site visits, licensing agency staff must notify licensees in writing within 30 days of determination that the allegations are unfounded.

In addition, this bill makes important changes in the Welfare and Institutions Code and the Evidence Code to improve the Child Welfare services, foster care, and adoptions programs.

**IMPLEMENTATION:** This new statute is sufficiently clear to implement without new regulations. File documents relating to unfounded complaints in confidential files. When complaints are determined to be unfounded following site visits, notify licensees in writing within 30 days.

Evaluator Manual Reference Section 3-2000, which specifies complaint procedures, will be updated to address harassment complaints.

**Assembly Bill 1525**  
**(Granlund) Chapter 724**

**AFFECTS:** Foster family homes and small family homes

**SUBJECT:** Out-of-home care for children eligible for Indian Child Welfare Act services

**SUMMARY:** AB 1525 amended the Health and Safety Code and the Welfare and Institutions Code as follows:

- Health and Safety Code Section 1505(n) exempts from licensure homes exclusively for eligible Indian Child Welfare Act children, including homes of extended family members and foster homes licensed, approved or specified by the children's tribes.
- For children eligible for Indian Child Welfare act services, Welfare and Institutions Code Section 272 authorizes the Department of Social Services to enter into agreements with Indian tribes for the provision of child welfare services and AFDC-FC foster care payment responsibilities.

**IMPLEMENTATION:** Homes with Indian children should have the information below on file. To determine when a home is exempt from licensure under Section 1505(n), licensing agency staff will obtain the name of the caseworker from the child's care provider. With the caseworker, licensing staff will confirm:

- The child's eligibility for Indian Child Welfare Act services,
- The child's tribe,
- Whether the home has been licensed, approved or specified by the child's tribe, and
- Whether the child is in the home of an extended family member. The child's extended family means those individuals defined by the law or custom of the Indian child's tribe. Lacking law or custom, the extended family includes a person who is at least age eighteen and is the child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

Until the regulations are amended, use Health and Safety Code Section 1505(n) as the basis for licensure exemptions.

**Assembly Bill 1976**  
**(Burton) Chapter 648**

**AFFECTS:** Residential care facilities for the chronically ill and supportive housing arrangements for people with AIDS

**SUBJECT:** Exemption from licensure

**SUMMARY:**

- As amended by AB 1976, Section 1568.03(c) exempts housing arrangements from licensure if they provide only housing, meals, transportation, housekeeping, recreational and social activities, the enforcement of house rules, counseling on activities of daily living, and service referrals.

- This exemption applies only if

Everyone living there obtains care and supervision and medical services without the assistance of anyone connected with the housing arrangement, and

No one living there has identified and unmet care and supervision needs.

- Staff of unlicensed housing arrangements may refer people living there to sources of care, supervision and medical services but may neither provide nor arrange for these services.
- A memorandum of understanding between a housing arrangement and service agencies to which people are referred does not necessarily mean that a CCLD license is required.

**IMPLEMENTATION:** This statute is sufficiently clear to be implemented without new regulations.

Carefully analyze memoranda of understanding between housing providers and service providers regarding care and supervision. When a memorandum of understanding creates a substantive connection between a housing provider and a provider of care and supervision, the housing arrangement is subject to licensure.

**Senate Bill 295**  
**(Peace) Chapter 840**  
**Revised February 2009**

**Affects:** All licensees operating a community care facility

**Subject:** Community Care Facilities: Disclosure of Registered Sex Offender (RSO) Information

**Summary:** Health and Safety Code Section 1522.01 places requirements on licensees who accept RSOs

- A. RSOs (adult or minors) must disclose this fact to licensees before becoming facility clients.
- B. Without identifying clients by name, facilities must confirm or deny whether any clients are RSOs upon the request of any of the following:
  - 1. The parent, family member or guardian of a child residing within a mile radius of the facility.
  - 2. Anyone who occupies a personal residence within a mile radius of the facility.
  - 3. Anyone who operates a business within a mile radius of the facility
  - 4. Any facility client or family member of a client.
  - 5. Anyone applying for placement in the facility or for placement of a family member.
  - 6. Anyone arranging for a client to be placed in the facility, and
  - 7. Any law enforcement officer.
- C. Following general confirmation that at least one client is an RSO, anyone listed above may describe physical characteristics of a client to the licensee. If the physical description matches a client, the facility must disclose that client's name upon request.
- D. Licensee must provide the designated California Department of Justice Child Molester Identification Line: 1-900-463-0400. For a small fee people calling this number can find out if a person is a registered sex offender who has victimized children.
- E. Any person who uses the disclosed information to commit a felony or a misdemeanor shall be subject to a penalty and a fine.

**Implementation:** This statute is sufficiently clear to implement without regulations.

- A. Licensees should, as a best practice, inform all prospective clients (adults or minors) that they are required by law to disclose if they are registered sex offenders.
- B. Without giving client names, licensees must respond to inquiries from the individuals listed above regarding registered sex offenders in the facility.

- C. After confirming that there are registered sex offenders in the facility, licensees must reveal a client's name, if the person asking can describe a specific client clearly enough for identification. Licensees may not disclose whether or not any identified client is a registered sex offender.
- D. Licensee must instead give the telephone number of the California Department of Justice Child Molester Identification Line, 1-900-463-0400, so that the person inquiring can confirm the client's sex offender status. Through that number, the California Department of Justice will confirm or deny a person's sex registration status only if he has victimized children.
- E. Licensing's role in enforcing this statute will be limited to responding to complaints that licensees are not disclosing information when appropriate inquiries are made, or are misusing the information clients disclose to them.

**Senate Bill 815**  
**(Peace) Chapter 706**

**AFFECTS:** Adult residential facilities, group homes and social rehabilitation facilities.

Note: Foster family homes, small family homes and family homes certified by foster family agencies are categorically excluded from these requirements.

**SUBJECT:** Neighborhood complaint procedures

**SUMMARY:** Senate Bill 815 amended the Community Care Facilities Act as follows.

- Health and Safety Code Section 1524.5(c) extends to July 1, 1996 the date by which community care facilities – with the exceptions below – must comply with Sections 1524.5(a) and (b).
- Section 1524.5(a) requires community care facilities with capacities of six clients or fewer to provide procedures approved by the licensing agency for immediate response to incidents and complaints.
- These procedures must include:
  - How the owner, licensee or their designee will be notified of neighborhood incidents and complaints,
  - How the owner, licensee or their designee, will fulfill the responsibility for investigating them personally, and
  - How those making complaints or reporting incidents will receive written responses regarding the actions taken or the reasons why no action needs to be taken.
- Section 1524.5(b) requires each facility to establish fixed times each week when the owner, licensee or their designee will be on the premises. These designated times must give concerned individuals opportunities to file complaints directly and must give the owner, licensee or their designee the opportunity to meet local residents and learn their concerns.
- Section 1524.5(a) exempts family homes certified by foster family agencies, foster family homes and small family homes from the neighborhood complaint requirements above.



**IMPLEMENTATION:** This statute is sufficiently clear to implement without regulations. Affected facilities must have CCLD-approved neighborhood complaint procedures by July 1, 1996. To give CCLD sufficient time to evaluate their complaint procedures, licensees should submit them at least a month before that date.

Review submitted procedures for compliance with the statute. Prior to July 1, 1996, ask facilities submitting procedures which do not comply with the statute to revise and resubmit them. After that date, cite facilities for violations of Sections 1524.5 when they fail to submit procedures and when they submit procedures which do not comply with the statute. The statute does not require CCLD to notify licensees after their complaint procedures have been approved.

Facilities not following established and approved procedures should be cited for violations of Health and Safety Code Section 1524(a) or (b) as appropriate.

After July 1, 1996 applicants for licensure of affected facilities will be required to submit neighborhood complaint procedures. Application forms will be revised.

Regulations are being written to require licensees to make complaint procedures known to interested parties.

## **SECTION II**

### **REGULATIONS OR ADDITIONAL INSTRUCTIONS TO BE DEVELOPED**

#### **Senate Bill 815** **(Peace) Chapter 706**

**AFFECTS:** Adult residential facilities

**SUBJECT:** Administrator certification

**SUMMARY:** Health and Safety Code Sections 1550, 1551, 1562.3 and 1562.4 make a number of changes to the adult residential facility administrator training program.

- The Department of Social Services must implement an administrator certification program by July 1, 1996.
- The initial training must last at least 35 hours
- Any person who becomes an adult residential facility administrator on or after July 1, 1996 must:

Be at least 21 years of age;

Complete a Department-approved training program, pass a Department-administered examination and submit appropriate documentation for certification;

Have a high school diploma or pass a general educational development test; and

Obtain a criminal record clearance.

- Licensee must notify the department within 30 days of changes in administrators.

**IMPLEMENTATION:** Emergency regulations were effective in January 1, 1996. This allows sufficient time for training vendors to develop programs and for currently employed administrators to meet these new requirements.

**SECTION III**  
**INFORMATION ONLY**

**Senate Bill 1161**  
**(Leslie) Chapter 890**

**AFFECTS:** Residential care facilities for the elderly, adult residential facilities, social rehabilitation facilities, adult day care facilities and adult day support centers.

**SUBJECT:** Adult abuse penalties

**SUMMARY:** According to Penal Code Section 288 as amended by SB 1161, sexual abuse of dependent adults by their caretakers – including facility owners, licensees, staff and volunteers – is now a felony.

**Senate Bill 1262**  
**(Alquist) Chapter 509**

**AFFECTS:** Foster family homes and small family homes

**SUBJECT:** License exemptions

**SUMMARY:** The California Judicial Council will establish a pilot project in Santa Clara County and up to four additional counties. In selected counties, homes of non-relative extended family members will be exempt from licensure until January 1, 2001.

Selected pilot counties and affected licensing agencies will be notified approximately July 1, 1996.

Children with special health care needs may not be placed in license-exempt facilities.